

PT 00-45

Tax Type: Property Tax

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**ILLINOIS
RAILWAY
MUSEUM,
APPLICANT**

v.

**ILLINOIS DEPARTMENT
OF REVENUE**

Nos. 00-PT-0008
(99-56-0016)
(99-56-0017)
(99-56-0019)
00-PT-0021
(99-56-0014)
(99-56-0015)
(99-56-0018)

**Real Estate Tax Exemptions for
1999 Assessment Year**

P.I.N.S: 17-10-100-013-0021, *et al.*
(See Attached List)

McHenry County Parcels

Alan Marcus
Administrative Law Judge

RECOMMENDATION FOR DISPOSITION

APPEARANCE: Mr. Thomas D. Nuelle, attorney at law, on behalf of the Illinois Railway Museum (hereinafter the “applicant”)

SYNOPSIS: These consolidated proceedings raise the limited issue of whether real estate identified by McHenry County Parcel Index Numbers 17-10-100-013-0021, 17-10-100-002-0021, 17-03-300-006-0021, 17-13-100-006-0021, 17-14-200-015-0021, 17-10-100-014-021, 17-10-100-016-0021, 17-10-100-017-0021, 17-10-200-014-0021

and 17-11-300-004-0021 (hereinafter collectively referred to as the "subject properties") were "exclusively used for charitable or beneficent purposes ...," within the meaning of Section 15-65 of the Property Tax Code, 35 ILCS 200/1-1 *et seq*, during the 1999 assessment year.

The controversies arise as follows:

Applicant filed a series of Applications for Property Tax Exemption with the McHenry County Board of Review. (Dept Group Ex. No. 1). The Board reviewed the applications and recommended to the Illinois Department of Revenue (hereinafter the "Department") that all of the requested exemptions be granted. (*Id.*). The Department then reviewed the Board's recommendation and issued a series of determinations finding that the subject properties were not in exempt use. (Dept. Group Ex. No. 2).

Applicant filed timely appeals to each of these determinations and later presented evidence at a formal evidentiary hearing. Following submission of all evidence and a careful review of the record, I recommend that all of the Department's determinations in these matters be reversed.

FINDINGS OF FACT:

1. The Department's jurisdiction over these matters and its positions therein, namely that all of the subject properties are not in exempt use, are established by the admission of Dept Group Ex. Nos. 1, 2.
2. All of the subject properties are part of the main campus of applicant's railroad museum (hereinafter the "museum"), which is situated on real estate identified by McHenry County Parcel Index Number 17-03-300-011. Applicant Ex. No. 6; Tr. pp. 53.

3. The museum was exempted from real estate taxation pursuant to the Department's determination in Docket No. 73-862, issued by the Office of Local Government Services on August 9, 1974. This exemption remained in full force and effect throughout the 1999 assessment year. Dept. Ex. No. 6; Administrative Notice.
4. The Parcel Index Number, date of acquisition and use of each of the subject properties¹ were as follows:

PIN	DATE OF ACQUISITION	USE
17-10-100-013-0021	10/21/96	Rail Yard & Museum-Related Storage
17-10-100-002-0021	12/13/94	Exhibit Space & Overflow Parking for Museum
17-03-300-006-0021	12/13/94	Special Events & Picnic Area for Museum Visitors
17-13-100-006-0021	11/26/96	Additional Picnic Area for Museum Visitors
17-14-200-015-0021	8/26/96	Access for Right of Way/Safety Buffer
17-10-100-014-0021	2/23/98	Exhibit Space & Overflow Parking for Museum
17-10-100-016-0021	2/23/98	Exhibit Space & Overflow Parking for Museum
17-10-100-017-0021	2/23/98	Exhibit Space & Overflow Parking for Museum
17-10-200-014-0021	3/19/97	Access Road to Right of Way/Safety Buffer
17-11-300-004-0021	3/19/97	Access Road to Right of Way/Safety Buffer

Dept. Group Ex. No. 1; Applicant Ex. Nos. 1, 2; Applicant Group Ex. Nos. 3, 5; Tr. pp. 20-48.

CONCLUSIONS OF LAW:

An examination of the record establishes that this applicant has demonstrated, by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant exempting all of the subject properties from 1999 real estate taxes under Sections 15-65 and/or 15-125 of the Property Tax Code, 35 ILCS 200/1-1, *et. seq.* Accordingly, under the reasoning given below, the Department's determinations in these matters, finding that the subject properties are not in exempt use, should be

¹. All uses described above shall be taken as uses that occurred during the 1999 tax year unless context clearly specifies otherwise.

reversed. In support thereof, I make the following conclusions:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional authority, the General Assembly enacted the Property Tax Code 35 **ILCS** 200/1-1 *et seq.* The provisions of the Code that govern disposition of this case are found in Sections 15-65(a) and 15-125, the former of which provides that:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

(a) institutions of public charity

35 **ILCS** 200/15-65(a).

Section 200/15-125 provides that:

Parking areas, not leased or used for profit, when used as part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, or religious or charitable institutions which meets the qualifications for exemption, are exempt.

35 **ILCS** 200/15-125.

Sections 15-65(a) and 15-125, like all statutes exempting property from taxation, are to be strictly construed against exemption. People Ex Rel. Nordland v. the Association of the Winnebago Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). For this reason, all doubtful factual questions and other debatable matters must be resolved in favor of taxation. *Id.* Therefore, applicant, which bears the burden of proof in all

exemption matters, must satisfy a standard of clear and convincing evidence in order to prove that the relevant statutory exemption applies. Immanuel Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill. App. 3d 678 (4th Dist. 1994).

Here, the relevant statutory exemptions pertain to "institutions of public charity" and parking areas. The statutory requirements for exemption under both provisions are: (1) exempt ownership; and, (2) exempt use. 35 ILCS 200/15-65(a), 35 ILCS 200/15-125; Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156 (1968); Northwestern Memorial Foundation v. Johnson, 141 Ill. App.3d 309 (1st Dist. 1986). Only the latter requirement is at issue herein, as all of the instant denials were predicated solely on lack of exempt use. Dept. Ex. No. 2. Therefore, I shall forego further discussion of the exempt ownership requirement and focus all remaining analysis on the issue of exempt use.

Applicant's usage of the subject properties can be divided into two categories. The first is overflow parking for its tax-exempt museum; the second is a compendium of support functions (i.e. access areas, rights of way, exhibit spaces, etc.) that help to sustain various museum activities. With respect to the first category, it is noted that parking areas qualify for exemption under Section 15-125 of the Property Tax Code, provided that they: (1) are not leased or otherwise used for profit; and (2) are used as part of a use for which an exemption is provided by the Code; and (3) are owned by any school district, non-profit hospital, or religious or charitable institutions which meets the qualifications for exemption. 35 ILCS 200/15-125; Northwestern Memorial Foundation v. Johnson, 141 Ill. App.3d 309 (1st Dist. 1986). Parcel Index Numbers 17-10-100-002-0021, 17-10-100-014-0021, 17-10-100-016-0021 and 17-10-100-017-0021 fall within these criteria.

Therefore, the Department's determinations as to all of these properties should be reversed.

Concerning the second category of uses, it is noted that exemptions have been sustained where applicant proves that its use of the subject property is "reasonably necessary" to support other exempt uses. Memorial Child Care v. Department of Revenue, 238 Ill. App. 3d 985 (4th Dist. 1992) (Day care center that limited its enrollment to children of employees working at a charitable hospital and its affiliated corporations held exempt). Applicant used the properties identified by Parcel Index Numbers 17-10-100-013-0021, 17-03-300-006-0021, 17-13-100-006-0021, 17-14-200-015-0021, 17-10-200-014-0021 and 17-11-300-004-0021, for purposes that were "reasonably necessary" for the administration and/or support of its tax-exempt railroad museum. Therefore, the Department's determinations as to these properties should be reversed.

WHEREFORE, for all the above-stated reasons, it is hereby recommended that real estate identified by McHenry County Parcel Index Numbers 17-10-100-013-0021, 17-10-100-002-0021, 17-03-300-006-0021, 17-13-100-006-0021, 17-14-200-015-0021, 17-10-100-014-021, 17-10-100-016-0021, 17-10-100-017-0021, 17-10-200-014-0021 and 17-11-300-004-0021 be exempt from 1999 real estate taxes under Sections 15-65 and/or 15-125 of the Property Tax Code, 35 **ILCS** 15-200/1-1, *et seq.*

November 16, 2000
Date

Alan I. Marcus
Administrative Law Judge

LIST OF P.I.N.S

17-10-100-013-0021
17-10-100-002-0021
17-03-300-006-0021
17-13-100-006-0021
17-14-200-015-0021
17-10-100-014-0021
17-10-100-016-0021
17-10-100-017-0021
17-10-200-014-0021
17-11-300-004-0021